

**MEMORANDUM OF AGREEMENT**  
**Between**  
**Alaska Department of Natural Resources**  
**and**  
**Alaska Department of Transportation and Public Facilities**

**Pursuant to AS 41.35.070**

**Regarding**

**PROGRAM UNDERTAKING WITH LIMITED POTENTIAL TO CAUSE EFFECTS TO  
HISTORIC PROPERTIES**

**Whereas**, the Commissioner of Department of Transportation and Public Facilities (DOT&PF) implements State of Alaska Capital Improvement Program (CIP) projects, construction projects and maintenance activities for highways, airports, and marine facilities; and

**Whereas**, the Commissioner of Department of Natural Resources (DNR) implements the preservation and protection of historic properties situated on land owned or controlled by the State pursuant to the Alaska Historic Preservation Act; and

**Whereas**, the DOT&PF Statewide Environmental Manager is the responsible party for compliance with AS 41.35.070 in DOT&PF guidance; and

**Whereas**, DNR Department Order #3 delegates authority to the Division of Parks and Outdoor Recreation from the Commissioner of DNR to administer the Alaska Historic Preservation Act; and

**Whereas**, the Chief, Office of History and Archaeology (Chief OHA), Division of Parks and Outdoor Recreation, administers the Alaska Historic Preservation Act program responsibilities; and

**Whereas**, the Statewide Environmental Manager determined that implementation of CIP, construction projects, and maintenance activities may have an effect upon historic properties as specified in Alaska Statute (AS) 41.35.070(b); and

**Whereas**, DOT&PF consulted with DNR in accordance with AS 41.35.070; and

**Whereas**, the Statewide Environmental Manager proposes that certain CIP, construction program, and maintenance activities identified as Minor Transportation Projects (MTPs) listed in Appendix A have limited potential to cause effects to historic properties and the Chief OHA agrees; and

**Now, therefore**, DNR and DOT&PF agree that this document shall be implemented in order to take into account the effects on historic properties that certain CIP, construction projects, and maintenance activities that qualify as MTPs in Alaska may have and that these stipulations shall satisfy compliance with AS 41.35.070.

## **STIPULATIONS**

The DOT&PF shall ensure that the following stipulations are implemented:

### **I. Scope**

- A. The intent of the Memorandum of Agreement (Agreement) is to establish the basis for streamlining efforts in cooperative partnership between DOT&PF and DNR for those CIP, construction projects, and maintenance activities that have limited potential to cause effects to historic properties. The Chief OHA retains administrative responsibilities under AS 41.35.070.
- B. The Statewide Environmental Manager shall continue to consult with the Chief OHA to further develop streamlining measures and opportunities for future expansion of the MTPs.

### **II. Applicability**

- A. With this Agreement, MTPs listed in Appendix A will not require the Chief OHA review or consultation under the AS 41.35.070 process.
- B. No prior notice, consultation, or review is required for individual MTPs, when the MTP is not part of a larger project and meets the conditions of Appendix A. DOT&PF may process these MTPs provided the proposed CIP, construction project, or maintenance activity has been reviewed by the DOT&PF Environmental Program Manager or the DOT&PF Statewide Archaeologist.
- C. Upon request by the Chief OHA, the Statewide Environmental Manager shall provide requested MTP files within 30 days.

### **III. Annual Review**

- A. Annual Review Meeting: The Statewide Environmental Manager and the Chief OHA shall meet annually in November to review this Agreement. Any amendments to this Agreement recommended during the review shall be considered in accordance with AS 41.35.070. If the review results in a recommendation to terminate the Agreement, termination of the Agreement shall be completed in accordance with Section VII.
- B. The Statewide Environmental Manager shall provide the Chief OHA with a mutually approved electronic format of CIP, construction projects, and maintenance activities processed under this Agreement for the corresponding year of the annual review meeting. The Statewide Environmental Manager shall also provide a list of the anticipated CIP, construction projects, and maintenance activities for the coming year.

#### **IV. Dispute Resolution**

- A. Should the Chief OHA object within thirty (30) days from the review or any action pursuant to this Agreement, the Statewide Environmental Manager shall consult with the Chief OHA within seven (7) calendar days of receipt of the objection. If the Chief OHA and Statewide Environmental Manager cannot resolve the objection within fourteen (14) calendar days of the consultation, the objection shall be elevated to their respective director, unless the Chief OHA and the Statewide Environmental Manager agree to extend the resolution timeline.
- B. If the Statewide Environmental Manager and the Chief OHA cannot resolve the dispute, the unresolved issue shall be elevated to the Commissioner of DOT&PF and the Commissioner of DNR for resolution.
- C. At any time during implementation of the measures stipulated in this Agreement, should an objection to any such measure or its manner of implementation be raised by a member of the public, DOT&PF and DNR shall take the objection into account and consult as needed to resolve the objection. Such objections will be resolved in accordance with Section IV.A.

#### **V. Amendments**

The DOT&PF or DNR may request that the Agreement be amended, whereupon all Signatories shall consult to consider such amendment. Amendments shall be executed in writing and go into effect when signed by all signatories of this Agreement.

#### **VI. Duration**

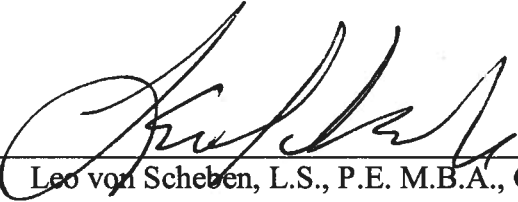
This Agreement becomes effective on its implementation date, and shall continue in full force and effect until June 30, 2015. The Agreement shall be evaluated for renewal at the November 2014 annual meeting. At any time, DOT&PF may request the Signatories in writing to consider an extension or modification of this Agreement. No extension or modification shall be effective unless all Signatories have agreed in writing.

#### **VII. Termination**

Any Signatory to this Agreement may terminate it by providing thirty (30) days notice to the other Signatories. The Signatories will consult during the period prior to termination to seek agreement on amendments or other actions that would avoid termination.

## SIGNATORIES

### ALASKA DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

By:  2/12/09  
Leo von Scheben, L.S., P.E. M.B.A., Commissioner Date

### ALASKA DEPARTMENT OF NATURAL RESOURCES

By:  Feb. 10, 2009  
Tom Irwin, Commissioner Date

## Appendix A

### Minor Transportation Projects and Maintenance Activities with Limited Potential to Cause Effects to Historic Properties

The Department of Transportation and Public Facilities (DOT&PF) in consultation with the Chief, Office of History and Archaeology (OHA), has determined that the Minor Transportation Projects (MTPs) and maintenance activities listed in this appendix have limited potential to cause effects to historic properties. The DOT&PF may process these MTPs with internal review by the DOT&PF Statewide Environmental Program Manager or DOT&PF State Archaeologist under the AS 41.35.070. No prior notice to OHA is required.

1. Mowing, seeding/reseeding, and other ground cover maintenance activities. *Condition: Work is limited to existing horizontal and vertical disturbance footprint; no hydro axing would occur.*
2. Replacement or repair of fixed signs, signals, lighting, interconnected traffic control or surveillance cameras, closed circuit TV, and other electronic traffic management devices; railroad, pedestrian, and school-crossing warning devices; airport radars, transmitter/receivers, and navigational aids; and improved railroad and pedestrian crossings signals. *Conditions: the repair or replacement is limited to similar materials on existing devices or within areas previously disturbed by road construction. No new ground disturbance would occur.*
3. Ordinary repair and modification, or replacement, of existing lighting, guardrails, barriers, fencing, traffic signals, curb and gutter, sidewalks, and variable message signs. *Conditions: work is limited to similar materials to existing features and no new ground disturbance would occur.*
4. Improvements to existing pedestrian facilities that provide curb ramps at pedestrian crossings to meet requirements of the American with Disabilities Act (ADA)
5. Maintenance repair, resurfacing, or rehabilitation of pavement and other roadway and aviation facility surfaces, including crack-seal and slurry seal, pothole repair, overlaying, milling, resurfacing, grooving, reapplication of pavement striping or markings (normal and raised), installation of rumble strips, and installation of snow or ice deflectors. *Conditions: work is limited to existing surfaced areas with no surface expansion, is within the existing vertical and horizontal alignments with no alternations, no ditching work is undertaken, and no new staging areas would be required.*
6. Shoulder treatments, placement of fill material, and landscaping on side slopes. *Conditions: work is limited to within the existing toe of slope embankment and no ditching work is undertaken.*
7. All work within interchanges and within the highway median; and at existing paved airports between the runways, aprons, taxiways, and other associated facility embankments. *Conditions: work does not include installation of new lighting and no new ground disturbance would occur.*

8. Any remedial action to a culvert such as scour protection or improvements for fish passage so long as the work is aesthetically and functionally in-kind and essentially the same footprint.
9. Routine cleaning, maintenance, and repair of existing storm water drainages or storm water management and water quality facilities and devices. *Condition: work does not expand or extend, retrofit, or redesign existing drainage facilities such as cross-culverts.*
10. Placement or replacement of riprap within an area previously disturbed by construction activities to prevent erosion of waterways or culverts. Replacement of riprap within an area previously disturbed by construction activities to prevent erosion of bridge abutments or piers. *Condition: no new ground disturbance would occur.*
11. All work done on bridges of the Interstate Highway System per the *Exemption Regarding Historic Preservation Review Process for Effects to the Interstate Highway System* approved by the Advisory Council on Historic Preservation on March 10, 2005; with the exception of those bridges identified in the *Final List of Nationally and Exceptionally Significant Features of the Federal Interstate Highway System*, effective December 19, 2006.
12. Purchase of marine vessels for the Alaska Marine Highway System. *Condition: the purchase is not associated with the decommissioning of an existing vessel.*